

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MIKEL NEIL (deceased),)
Plaintiff,)
v.) 4:18-cv-2091-CAS
JON BELMAR et al.,)
Defendants.)

**MOTION OF DEFENDANTS BELMAR AND ST. LOUIS COUNTY
TO DISMISS COUNTS I THROUGH IV OF PLAINTIFF'S COMPLAINT**

COME NOW Defendants Belmar and St. Louis County, and pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure ask the Court to Dismiss Counts I through IV of Plaintiff's Complaint for failure to state a claim upon which relief may be granted. As grounds for the Motion, Defendants Belmar and St. Louis County state as follows:

1. Plaintiff has failed to plead facts in Count I to support a claim for liability against Defendants Belmar and St. Louis County sufficient to subject them to liability under 42 U.S.C. § 1983 for the acts of the individual defendants Mark Jakob and Alex Maloy.
2. Plaintiff has failed to plead facts in Count II to support a claim for liability against Defendants Belmar and St. Louis County sufficient to subject them to liability under 42 U.S.C. § 1983 for the acts of the individual defendants Mark Jakob and Alex Maloy.
3. Plaintiff asserts a claim in Count III for negligent hiring, training and supervision against Defendants Belmar and St. Louis County under 42 U.S.C. § 1983, but negligence cannot form the basis of liability under § 1983.
4. Plaintiff has only pled conclusions, and not facts to support a claim for civil conspiracy in Count IV.

5. Defendants file a Memorandum of Law in Support of their Motion to Dismiss, and incorporate all reasons and grounds for dismissal included in the Memorandum of Law in the instant Motion.

WHEREFORE, for all of the above stated reasons, as well as those contained in the Memorandum of Law in Support of their Motion to Dismiss, Defendants Belmar and St. Louis County ask this Court to grant their Motion to Dismiss, and Dismiss Counts I though IV of Plaintiff's Complaint.

PETER J. KRANE
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CERTIFICATE OF SERVICE

A copy of the forgoing was served on all counsel of record though the Court's electronic filing system this 11th day of February, 2019.

/s/ Priscilla F. Gunn